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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

LETTERS PATENT APPEAL NO. 218 OF 2001
in

WRIT PETITION NO.5006 OF 1991

Government Milk Scheme, Miraj ... Appellant

vs

The General Secretary,
Lal Bavta Kamgar Union .. Respondents
& ors

Mr.S.R.Nargolkar A.G.P.for Appellant
Mr.N.J.Patil for Respondent nos. 3 to 5.

CORAM : SHRI J.N.PATEL &
SHRI K.K.TATED, JJ.

DATE :22ND JANUARY, 2009

P.C.:

1. Heard.

2. The appellant State has preferred the LPA against the judgment and order dated 16th November, 2000 passed by the learned Single Judge of this Court in Writ Petition No. 5006 of 1991 wherein the appellant had challenged the order passed on 27th July 1991 by the Industrial Tribunal on the complaint lodged by the respondent-contractor of workmen who are the respondents.

3. The contention of the learned A.G.P. is that

the complaint was not within the jurisdiction of the Industrial Tribunal as the grievance of the complainant was regarding the termination of service which will lie within the jurisdiction of the labour Court under item 1A of Schedule IV of MRTU and PULP Act, 1971. The learned A.G.P. submitted that once the complainant approaches the tribunal with a grievance that his services has been discontinued it amounts to termination and therefore the learned Single Judge failed to consider the issue of jurisdiction in its proper perspective.

4. We have gone through the record and proceedings of the order passed by the learned Single Judge.

5. In our view, the sum and substance of the grievance of the respondents clearly brings their case under item 6 of Schedule IV of the Act. This is borne out even from the evidence on record on admission given by the appellant’s own witness. The learned Single Judge has discussed the issue in his judgment in para 5 and 6 and has also referred to the evidence. We therefore, do not find that the learned Single Judge has committed any error or illegality in dismissing the Writ Petition and

upholding the order of the Industrial Court. Therefore, we do not find any merits in the L.P.A. and the same is dismissed with costs.

Since we have dismissed this appeal, both the Civil Applications does not survive and is disposed of accordingly. The learned A.G.P. submits that the ad interim relief granted in the appeal may be continued for further period of six weeks to enable the State to consider whether it should approach the Supreme Court in the matter. We are not inclined to continue the ad interim reliefs as this LPA No.218 of 2001 is pending since then. Further there is no question of law involved in the matter and therefore request of the A.G.P. to continue the ad interim relief stands rejected.

(J.N. Patel, J.)

(K.K. Tated, J.)